

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

IN RE: ACTOS® (PIOGLITAZONE)
PRODUCTS LIABILITY LITIGATION

MDL No. 6:11-md-2299

This Document Applies To:
All Cases

JUDGE DOHERTY

MAGISTRATE JUDGE HANNA

RULING

The Plaintiffs' Steering Committee (PSC) has filed a motion, entitled "Motion for Leave of Court to File Under Seal Plaintiffs' Steering Committee's Motion to Unseal Documents (CMO 7)" [Rec. Doc. 5455]. The filed document comprises two separate requests identified as two separate motions within the single filing, and makes ambiguous requests of the Court; namely, it is unclear whether the PSC requests leave to file its motion to unseal, requests leave to file its motion to unseal under seal, or both. Nonetheless, the Court will interpret the PSC's filing as a request to place the entire filing under seal, a request for leave to file its request to unseal certain described documents, and, thereafter, a request or motion to unseal those documents identified in its motion. For the reasons given below, the motion or request for leave of court to file the entire document and attachments under seal will be GRANTED, the motion or request for leave to file the motion to unseal documents provided pursuant to this Court's Case Management Order: Protecting the Confidentiality of Discovery Materials [Rec. Doc. 1540] ("the Protective Order") will be DENIED, and the request or motion to unseal those certain identified documents will be DENIED AS MOOT.

The PSC's motion can be read to request the Court to grant the PSC leave to file the multiple requests or motions and all attachments under seal. Because the attachments include

documents that were produced by the Defendants pursuant to the Protective Order [Rec. Doc. 1540], the request to place the entire motion and attachments under seal is GRANTED.

The PSC has further requested leave of the Court to file a motion containing a request to *unseal* certain documents produced by way of the Protective Order [Rec. Doc. 1540]. The documents identified by the PSC as the subject of its request, however, have never been placed *under seal* by this Court. Rather, the documents were produced to the Plaintiffs pursuant to the Protective Order [Rec. Doc. 1540] after having been designated as confidential. This Court has no power *to unseal* documents that were never placed “under seal” by this Court, as argued and as described in the PSC’s motion. The motion or request conflates and confuses two separate and different procedural vehicles. Therefore, the PSC’s request for leave to file its motion *to unseal* certain documents provided pursuant to the Protective Order [Rec. Doc. 1540] is DENIED.

The PSC, also, requests this Court to unseal the particular documents listed in and attached to its filing. As this Court has denied the PSC leave to file its motion or request to unseal the documents, for the reasons given above, the motion *to unseal* is DENIED AS MOOT. However, as this Court rules, at this juncture, only upon procedural grounds, this denial in no way prejudices the PSC’s right to refile a motion that addresses the proper procedural vehicles and that follows the newly ordered procedure.¹

For these reasons,

The PSC’s request that Rec. Doc. 5455 and all attachments be filed under seal is GRANTED.

¹ There is a potential ambiguity between the procedures for filing contested motions as described in the Protective Order [Rec. Doc. 1540] and in this Court’s Case Management Order: Motions [Rec. Doc. 2742]. This potential ambiguity now has been addressed by this Court by the issuance of an Amended Case Management Order: Protecting the Confidentiality of Discovery Information [Rec. Doc. 5470] and an Amended Case Management Order: Motions [Rec. Doc. 5471].

The PSC's request for leave to file its motion to unseal documents provided pursuant to the Protective Order [Rec. Doc. 1540] is DENIED.

The PSC's motion to unseal identified documents is DENIED AS MOOT, without prejudice to the movant's right to file again after following the newly instituted procedure referenced above.

THUS DONE AND SIGNED in Lafayette, Louisiana, this 8 day of April, 2015.



REBECCA F. DOHERTY
UNITED STATES DISTRICT JUDGE